

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Group Art Unit: 2621

Appln. No. : 10/603,868

Examiner: David J. Czekaj

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For : SYSTEM AND METHOD FOR EFFICIENTLY USING VIDEO ENCODING
RESOURCES**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Window, Mail Stop **AF**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This request is being filed concurrently with a Notice of Appeal and in response to the Final Office Action dated December 24, 2008 ("Final Office Action"). Reconsideration and withdrawal of the rejections, and allowance of the claims are respectfully requested in view of the following remarks.

Applicants note that this is the second pre-appeal brief request for review filed in the instant application. The first pre-appeal brief was filed on February 27, 2008 and resulted in reopening of prosecution as set forth in the Notice of Panel Decision mailed by the Office on April 21, 2008.

Remarks

In the Office Action, Claims 1-4, 10, and 14-19 are rejected under 35 U.S.C. §103(a) for being unpatentable over U.S. Pat. No. 6,917,009 ("Rosenbaum") in view of U.S. Pat. No. 6,520,407 ("Nieswand"). Claims 5 and 20 are rejected under 35 U.S.C. §103(a) for being unpatentable over Rosenbaum and Nieswand, and further in view of U.S. Pat. No. 5,043,908 ("Manduley"). These rejections are respectfully traversed.

Claims 1-4, 10, and 14-19 in view of Rosenbaum and Nieswand

The instant invention generally relates to systems for sorting articles according to information (such as addresses or barcodes) on the articles. More particularly, the invention relates to systems and methods for efficiently using available video coding resources when automatic

machine recognition (e.g., barcode reading and optical character recognition (OCR)) does not successfully resolve information needed for sorting articles. Generally speaking, video coding systems display an image of the unresolved information on a video display, and a human operator views the image and enters the correct address. See, for example, lines 7-16 of page 2 of Applicants' specification. More specifically, independent claim 1 recites, in pertinent part:

... determining whether an estimated time for video coding exceeds a determined threshold, if an imaging device does not resolve information needed for handling an article, and

sending image data for unresolved information to a video coding station if the estimated time for video coding does not exceed the determined threshold ...

Independent claim 10 recites, in pertinent part:

... determining whether an estimated time for video coding exceeds a determined threshold, if the imaging device does not resolve information needed for handling an article, and

sending image data for the unresolved information to a wait queue until a determined release event or timeout occurs if the estimated time for video coding does not exceed the determined threshold,

Independent claim 15 recites, in pertinent part:

... wherein at least one of the at least one programmable processor is programmed to determine whether an estimated time for video coding exceeds a determined threshold if the imaging device does not resolve information needed for handling an article, and sending image data for the unresolved information to the video coding station if the estimated time for video coding does not exceed the determined threshold.

The Examiner acknowledges, and Applicants agree that Rosenbaum does not disclose *determining whether an estimated time for video coding exceeds a determined threshold*. The Examiner asserts that Nieswand discloses determining whether an estimated time for video coding exceeds a determined threshold if an imaging device does not resolve information needed for handling an article at line 55-59 of col. 2 and lines 40-60 of col. 3. The Examiner concludes that it would have been obvious to modify Rosenbaum in view of Nieswand, and that the resulting combination teaches all of the features of the claimed invention (Final Office Action, pages 2 and 3). Applicants disagree.

Contrary to the Examiner's assertions, Nieswand does not disclose or suggest *determining whether an estimated time for video coding exceeds a determined threshold*, as recited in the claimed invention. Instead, Nieswand discloses a mail processing system in which an automatic

OCR processing unit 11 attempts to automatically process a mail item completely (see, e.g., FIGS. 1-2). When the automatic OCR processing unit 11 fails to automatically resolve the address information of a mail item, a job formulator 13 formulates and sends a job to the video coding device 20 for video coding of the article (col. 4, lines 14-23). The selected coding station 7 is provided with the job data and presents the image of the mail item on a high-resolution monitor to the coder (e.g., human operator), who manually performs the required coding action. The result of the data input by the coder is sent back to the OCR processing unit (col. 4, lines 34-42; col. 5, lines 45-65).

Thus, in Nieswand, any mail item that cannot be resolved by the automatic OCR processing unit 11 is sent to the video coding device 20, without discrimination. There is simply no teaching of *determining whether an estimated time for video coding exceeds a determined threshold* when the OCR processing unit 11 fails to resolve an address. To the contrary, there is no mention whatsoever of an estimated time for video coding or of a threshold value in Nieswand, much less of a comparison step that requires *determining whether an estimated time for video coding exceeds a determined threshold*.

The Examiner, however, is of the opinion that Nieswand's description at line 55-59 of col. 2 and lines 40-60 of col. 3 teaches *determining whether an estimated time for video coding exceeds a determined threshold*. More specifically, the Examiner states "[t]he short predetermined time interval indicates a comparison with a threshold in order to correctly determine when the interval has expired" (Final Office Action, page 3).

Notwithstanding, Applicants submit that this does not teach what is recited in the independent claims. In the passages cited by the Examiner, and at claim 10, Nieswand describes an additional embodiment in which a "fast automatic online routing information reader" (referred to herein as a "reader") is arranged upstream of the OCR processing unit 11. When Nieswand's reader does not read the routing information of a mail piece within a predetermined, short time interval, the images of the mail piece are forwarded to the OCR processing unit 11. More specifically, Nieswand states:

For a particularly fast and effective operating mode, it is advantageous according to claim 10 to install a fast, automatic online routing information reader upstream of the arrangement according to the invention. If this reader does not read the routing information within a predetermined, short time interval, the respective images are forwarded to the arrangement according to the invention. (col. 2, lines 53-59).

...

Following the scanning, the image of a mail item to be processed is sent to the automatic reader. For this, it is advantageous for reasons of predicting the system behavior to give the job initially to a rapid automatic online reader as primary reader, which attempts to process the mail item without interaction or interruption. ... Should this reading attempt fail, the image of the mail item is transmitted to the arrangement according to the invention with an OCR processing unit 11 (col. 3, lines 37-48).

From this description, it is clear that the reader and the OCR processing unit 11 are both automatic processing units, and that the “predetermined, short time interval” refers to the automatic processing performed by the reader, which is upstream of the OCR processing unit 11. The “predetermined, short time interval” has nothing to do with the video coding device 20, which is arranged downstream of the OCR processing unit 11 and which requires human input to resolve address information. Nieswand simply makes no mention of an estimated time of a manual process (e.g., video coding). Because the “predetermined, short time interval” refers to the reader and not to the video coding device 20, the passages of Nieswand cited by the Examiner cannot reasonably be construed as teaching an estimated time for video coding. Therefore, Nieswand does not disclose or suggest *determining whether an estimated time for video coding exceeds a determined threshold*, as recited in the claimed invention.

In fact, the Examiner does not even assert that Nieswand teaches an estimated time for video coding, but rather, merely contends that “a time comparison” must be present in the Nieswand system. However, the Examiner does not contend that the alleged “time comparison” involves comparing an estimated time for video coding to a threshold. To the contrary, the Examiner states that “a comparison with a threshold must take place” (Final Office Action, page 2) and that “it would have been obvious to ... take the apparatus disclosed by Rosenbaum and add the time comparison taught by Nieswand” (Final Office Action, page 3). As such, the Examiner’s explanation does not address the actual language of the claimed invention, and is further evidence that the applied art fails to disclose or suggest *determining whether an estimated time for video coding exceeds a determined threshold*, as recited in the claimed invention.

Since neither Rosenbaum nor Nieswand teaches *determining whether an estimated time for video coding exceeds a determined threshold*, then neither can be reasonably be said to disclose or suggest *sending image data for unresolved information to a video coding station if the estimated time for video coding does not exceed the determined threshold*, as further recited in claims 1 and 15, or *sending image data for the unresolved information to a wait queue until a determined*

release event or timeout occurs if the estimated time for video coding does not exceed the determined threshold, as additionally recited in claim 10.

Claims 2-4, 14, and 16-19 depend from allowable independent claims 1, 10, and 15, respectively, and are allowable by virtue of the allowability of the respective independent claims.

Claims 5 and 20 over Rosenbaum, Nieswand, and Manduley

Claims 5 and 20 depend from allowable independent claims 1 and 15, and additionally recite *the estimated time for video coding is comprised of a weighted average response time* (claim 5), and *at least one of the at least one programmable processor determines the estimated time for video coding based on a weighted average response time* (claim 20). None of the applied references discloses or suggests a weighted average response time. Nor does the Examiner even assert that the applied art teaches a weighted average response time. In fact, the Examiner fails to even address the word “weighted” in the explanation of the rejection. Instead, the Examiner merely asserts that Manduley discloses “calculating an average response time.” However, claims 5 and 20 do not recite merely an *average response time*, but rather, recite a weighted average response time.

Furthermore, Manduley does not disclose video coding, much less an estimated time for video coding. As discussed *supra*, Rosenbaum and Nieswand also fail to teach an estimated time for video coding. Since none of the applied references teaches an estimated time for video coding, none can possibly be construed as teaching *the estimated time for video coding is comprised of a weighted average response time*, as recited in claim 5, or *at least one of the at least one programmable processor determines the estimated time for video coding based on a weighted average response time*, as recited in claim 20.

Conclusion

Reconsideration of the Final Office Action and allowance of the present application and all the claims therein are respectfully requested and believed to be appropriate.

February 24, 2009
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